(2)
Supreme Court, U.S.
FILED
04 283 APR 5 - 2004
OFFICE OF THE CLERK

No.

In the Supreme Court of the United States

ITAMAR LUBETZKY

Petitioner

v.

UNITED STATES OF AMERICA

Respondent

On Petition for Writ of Certiorari
To the First Circuit Court of Appeals

APPENDIX

Timothy J. Burke
Counsel of Record
Burke & Associates
400 Washington Street
Braintree, MA 02184
(781) 380-0770

Counsel for the Petitioner

August 25, 2004

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 01-2357
03-1931

ITAMAR LUBETSKY,

Plaintiff, Appellant,

v.

UNITED STATES

Defendant, Appellee.

Before

Boudin, Chief Judge,
Torruella and Howard, Circuit Judge

JUDGMENT

Entered: September 11, 2003

Because no timely notice of appeal was filed, we lack jurisdiction over appeal number 03-1931. Mr. Lubetzky's response to our show cause order of August 4, 2003, which requested that he make a showing in regard to jurisdiction and explain why the appeal was not duplicative of an earlier one failed to address these issues. Therefore, appeal number 03-1931 is dismissed for lack of diligent prosecution. As there is nothing to consolidate, the motion to consolidate is

denied. As there is no basis upon which to ground reconsideration of the show cause order, the motion to reconsider is denied.

It is so ordered.

By the Court:

/Signed

Richard Cushing Donovan, Clerk